

## Supporting Document 7



# California Regional Water Quality Control Board

## San Diego Region



**Winston H. Hickox**  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>  
9174 Sky Park Court, Suite 100, San Diego, California 92123  
Phone (858) 467-2952 • FAX (858) 571-6972

**Gray Davis**  
Governor

### CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

In the Matter of:

**Compliance with:**  
**Electronic Submittal of Laboratory Data**  
**Budget Trade & Gas**

**NOTICE OF VIOLATION**  
**NO. R9-2002-0162**  
**Date: June 6, 2002**

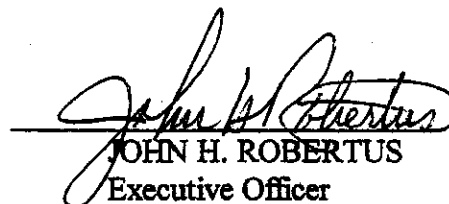
Mr. & Mrs. Chung Kwan Hsu  
Budget Trade & Gas  
510 West 5<sup>th</sup> Avenue  
Escondido, CA 92025

#### YOU ARE HEREBY NOTIFIED OF THE FOLLOWING VIOLATION:

Failure to submit laboratory data in electronic deliverable format for First Quarter 2002 to the Geotracker data warehouse as required by Water Code section 13196, and California Code of Regulations section 2729.1.

Questions pertaining to the issuance of this Notice of Violation should be directed to Ms. Susan Pease at (858) 637-5596. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

Mr. John H. Robertus  
Executive Officer  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

  
JOHN H. ROBERTUS  
Executive Officer

#### California Environmental Protection Agency

*The energy challenge facing California is real. Every Californian needs to take immediate action to reduce energy consumption. For a list of simple ways you can reduce demand and cut your energy costs, see our Web-site at <http://www.swrcb.ca.gov>.*

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# California Regional Water Quality Control Board

## San Diego Region

Winston H. Hickox  
Secretary for  
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Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>  
9771 Clairemont Mesa Boulevard, Suite A, San Diego, California 92124-1324  
Phone (858) 467-2952 • FAX (858) 571-6972



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Governor

June 25, 2002

Mr. & Mrs. Chung Kwan Hsu  
Budget Trade & Gas  
510 West 5<sup>th</sup> Avenue  
Escondido, CA 92025

In Reply Refer to:  
UST:50-2661.05:sjp

Dear Mr. & Mrs. Hsu:

**RE: REPORT OF ASSESSMENT ACTIVITIES**  
**Budget Trade & Gas, 510 West 5<sup>th</sup> Avenue, Escondido, CA**

This letter is to acknowledge submittal of the following report:

Report of Assessment Activities, dated April 30, 2002, which contains the 1<sup>st</sup> quarter 2002 ground water monitoring and free product removal data.

Numerous discrepancies in the reported laboratory data are apparent when tables, figures, laboratory data sheets, and electronic deliverable format in Geotracker are compared. Due to the numerous discrepancies in this report, it is not acceptable. Please resubmit and correct the discrepancies among all reported laboratory data.

In addition, the previous report, **4<sup>th</sup> Quarter 2001 Ground Water Monitoring**, also had discrepancies among the laboratory data reported in Table 2, figures, the laboratory data sheets, and electronic deliverable format in Geotracker. The discrepancies in this report also need to be corrected and resubmitted.

The free product removal report indicates that very little free product exists in ground water monitoring wells MW-1 and MW-4. Continue to monitor the free product on a monthly basis and report on a quarterly basis.

If you have any questions, please call me at (858) 637-5596.

Respectfully,

Susan Pease  
Environmental Scientist C  
San Diego Regional Water Quality Control Board

**California Environmental Protection Agency**

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Mr. Hsu

- 2 -

June 25, 2002

cc: Ms. Judy Reid, State Water Resources Control Board, Underground Storage Tank Cleanup  
Fund, 1001 'I' Street, Sacramento CA 95814

Mr. Chuck Houser, Southern California Soils and Testing, Inc., P.O. Box 600627  
San Diego, CA 92160-0627

SJP:jac:sjp

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File # 50-2661.05

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# California Regional Water Quality Control Board

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Gray Davis  
Governor

July 8, 2002

Mr. & Mrs. Chung Kwan Hsu  
Budget Trade & Gas  
510 West 5<sup>th</sup> Avenue  
Escondido, CA 92025

In Reply Refer to:  
UST:50-2661.05:sjp

Dear Mr. & Mrs. Hsu:

**RE: COST ESTIMATE FOR PAY FOR PERFORMANCE**  
**Budget Trade & Gas, 510 West 5<sup>th</sup> Avenue, Escondido, CA**

At the May 8, 2002, Board meeting, the Regional Water Quality Control Board (RWQCB) encouraged staff to proceed with placing Budget Trade and Gas into the Pay for Performance program. Pay For Performance is a United States Environmental Protection Agency (EPA) program to expedite remediation at sites contaminated with petroleum hydrocarbons. Since the May 8, 2002 Board meeting, staff has met with you and your consultant to discuss cleanup values, preliminary active remediation goals (PARG's), and interim payment milestones. Staff has also discussed the proposal with the Underground Storage Tank Cleanup Fund (USTCF), and has been directed by the USTCF to have you and your consultant submit the cost estimate to the USTCF for their review. The USTCF also agreed that methyl tertiary butyl ether (MTBE) is the primary contaminant of concern, and that a PARG for MTBE shall be included when determining the cost estimate.

**Therefore, provide a cost estimate for Pay for Performance by August 15, 2002 for remediation at Budget Trade & Gas. Please see the attached proposed PARG's that were discussed at a meeting. At a minimum, the cost estimate must include PARG's for Total Petroleum Hydrocarbon (gas, diesel), benzene, and MTBE.**

If you have any questions, please call me at (858) 637-5596.

Respectfully,

Susan Pease  
Environmental Scientist C  
San Diego Regional Water Quality Control Board

**California Environmental Protection Agency**

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Mr. Hsu

- 2 -

July 8, 2002

cc: Mr. Bob Trommer, State Water Resources Control Board, Underground Storage Tank  
Cleanup Fund, 1001 'I' Street, Sacramento CA 95814

Mr. Chuck Houser, Southern California Soils and Testing, Inc., P.O. Box 600627  
San Diego, CA 92160-0627

SJP:jac:sjp

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File # 50-2661.05

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BUDGET TRADE GAS  
PARG CALCULATION FOR KEY MONITORING WELLS

COC*	MW-1	JHB-7	JHB-10	PARG's	Sum of PARG's X 3 wells
TPH**	5,900	650	580	1000	
Benzene**	150	160	480	100	
MTBE**	190	4,000	3,300	400	
TBA**	25	2.5	2.5	20	
<b>total</b>	<b>6,265</b>	<b>4812.5</b>	<b>4362.5</b>	<b>1520</b>	<b>4,560</b>
<b>Sum of COC's</b>			<b>15,440</b>		
<b>Difference of COC's minus PARG's X 3 wells</b>					<b>10,880</b>
<b>25% reduction</b>					<b>2,720</b>
<b>25% Milestone</b>					<b>12,720</b>
<b>50% Milestone</b>					<b>10,000</b>
<b>75% Milestone</b>					<b>7,280</b>
<b>100% Milestone***</b>					<b>4,560</b>

\* Contaminant of Concern

\*\* Units are ug/L

\*\*\* PARG must be attained at each well for each COC

**BUDGET TRADE GAS  
PERIMETER WELLS**

<b>COC*</b>	<b>MW-5</b>	<b>MW-6</b>	<b>MW-8</b>	<b>MW-9</b>	<b>PARG</b>
<b>TPH**</b>	ND	ND	ND	ND	ND
<b>TPHd**</b>	2,200	ND	ND	ND	1,000
<b>Benzene**</b>	ND	ND	ND	ND	ND
<b>Toluene**</b>	ND	ND	ND	ND	ND
<b>Ethylbenzene**</b>	ND	ND	ND	ND	ND
<b>Xylenes**</b>	ND	ND	ND	ND	ND
<b>MTBE**</b>	34	1.7	520	10	260
<b>TBA**</b>	ND	ND	ND	ND	ND

\* Contaminant of Concern

\*\* Units are ug/L

MTBE PARG for MW-8 is 50% reduction of baseline





# California Regional Water Quality Control Board

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Phone (858) 467-2952 • FAX (858) 571-6972



Gray Davis  
Governor

### CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION

In the Matter of:

**Compliance with:**  
**Electronic Submittal of Laboratory Data**  
**Budget Trade & Gas**

**NOTICE OF VIOLATION**  
**NO. R9-2002-0210**  
**Date: August 5, 2002**

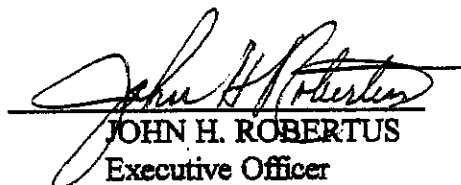
Mr. & Mrs. Chung Kwan Hsu  
Budget Trade & Gas  
510 West 5<sup>th</sup> Avenue  
Escondido, CA 92025

**YOU ARE HEREBY NOTIFIED OF THE FOLLOWING VIOLATION:**

Failure to submit laboratory data in electronic deliverable format for Second Quarter 2002 to the Geotracker data warehouse as required by Water Code section 13196, and California Code of Regulations section 2729.1.

Questions pertaining to the issuance of this Notice of Violation should be directed to Ms. Susan Pease at (858) 637-5596. Written correspondence pertaining to this Notice of Violation should be directed to the following address:

Mr. John H. Robertus  
Executive Officer  
California Regional Water Quality Control Board  
San Diego Region  
9174 Sky Park Court, Suite 100  
San Diego, CA 92123

  
JOHN H. ROBERTUS  
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**Gray Davis**  
Governor

August 8, 2002

Mr. & Mrs. Chung Kwan Hsu  
Budget Trade & Gas  
510 West 5<sup>th</sup> Avenue  
Escondido, CA 92025

In Reply Refer to:  
UST:50-2661.05:sjp

Dear Mr. & Mrs. Hsu:

**RE: 2<sup>ND</sup> QUARTER 2002 GROUND WATER MONITORING, FREE PRODUCT  
REMOVAL REPORT  
Budget Trade & Gas, 510 West 5<sup>th</sup> Avenue, Escondido, CA**

This letter is to acknowledge submittal of the following reports:

1. 2nd quarter 2002 ground water monitoring
2. Free product removal data

The 2<sup>nd</sup> quarter 2002 ground water monitoring report is **incomplete** for the following reasons:

- 1) In the 2<sup>nd</sup> quarter 2002 two ground water monitoring wells were not sampled: MW2, which is reported to be filled with grout, and MW3 which is reported to have a Southern California Soils and Testing bailer stuck inside it. Repair these monitoring wells, and sample them in the 3<sup>rd</sup> Quarter 2002. If the wells cannot be repaired, they should be replaced. Failure to sample all monitoring wells is a violation of Cleanup and Abatement Order (CAO) 2000-255 Directive V which requires you to sample all monitoring wells not containing free product. Please resolve the problems with wells MW2 and MW3 before the next sampling event is conducted.
- 2) The diagrams are incomplete. All figures shall include the following information:
  - a) Drawn to scale
  - b) North direction arrow
  - c) Streets, structures, and utilities (above & below ground)
  - d) Excavation and stockpile locations
  - e) Tank and piping locations (past, existing, proposed)
  - f) Well, soil boring, and sample locations
  - g) Legend for symbols and abbreviations
- 3) Isoconcentration diagrams of key constituents are missing from the report.

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Mr. and Mrs. Hsu

- 2 -

August 8, 2002

**Failure to submit a complete technical report required by CAO No. 2000-255 subjects you to civil liabilities under California Water Code Section 13350(d) in an amount not to exceed \$15,000 for each day in which the violation occurs. To correct this violation of CAO No. 2000-255 please submit the information requested in items 1, 2, and 3 above by September 16, 2002.**

In a meeting held in our office on May 22, 2002, we discussed adding three Plavan wells to the monitoring program for the Budget Trade & Gas site. It is my understanding that your consultant, Southern California Soils and Testing, was to contact Plavan and set up a meeting to discuss transferring the responsibility for three ground water monitoring wells to you. Data from these wells is to be included in quarterly monitoring reports. Please update me on the status of this transfer.

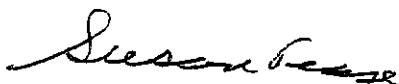
Please include field data from monitoring well sampling events in future quarterly monitoring reports beginning with the next report. I would also appreciate you sending me copies of the field data for the previous three quarterly monitoring reports.

The free product removal report indicates that very little free product exists in ground water monitoring wells MW-1 and MW-4. Continue to monitor the free product on a monthly basis and report on a quarterly basis.

The next quarterly monitoring report is due October 30, 2002.

If you have any questions, please call me at (858) 637-5596.

Respectfully,



Susan Pease  
Environmental Scientist C  
San Diego Regional Water Quality Control Board

cc: Ms. Judy Reid, State Water Resources Control Board, Underground Storage Tank Cleanup Fund, 1001 'I' Street, Sacramento CA 95814

Mr. Chuck Houser, Southern California Soils and Testing, Inc., P.O. Box 600627,  
San Diego, CA 92160-0627

Mr. Stephen Jensen, Southern California Soils and Testing, Inc., P.O. Box 600627,  
San Diego, CA 92160-0627

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Mr. and Mrs. Hsu

- 3 -

August 8, 2002

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File # 50-2661.05

***California Environmental Protection Agency***

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# California Regional Water Quality Control Board

## San Diego Region

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Governor

**TO:** File 50.2661.05

**FROM:** Sue Pease, Environmental Scientist  
**SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD**

**DATE:** August 23, 2002

**SUBJECT:** Meeting with Representatives of Budget Trade & Gas Facility, 510 West 5<sup>th</sup> Avenue, Escondido, CA

Mr. Jimmy Hsu, owner and operator of Budget Trade and Gas, Regional Water Quality Control Board (Regional Board) staff members Sue Pease and Julie Chan, and Chuck Houser and Steve Jensen (consultants with Southern California Soil & Testing, Inc.) met at our office on August 23, 2002 to discuss the following:

- 1) Shall 2 ground water monitoring wells be fixed now?
- 2) Possible Addendum to the CAO will be written with a date to start remediation.
- 3) Errors in the last 3 quarterly monitoring reports.
- 4) Late submittal of Geotracker electronic laboratory data which triggered 3 NOV's.

Meeting discussion:

**Item 1.** We discussed whether drilling out the wells could be postponed or cancelled. Chuck Houser said he had monitoring data from a well point that was used in the Vapor Extraction Pilot Test from late 2001. He felt that this data could be used in lieu of the 2 wells and would contact us.

**Item 2.** The RWQCB may issue an addendum to the CAO with a date to start remediation. This is related to the frustration we are experiencing with the slow pace of getting the site into Pay for Performance. Southern California Soils and Testing did not submit the Cost Estimate for Pay for Performance by August 15, 2002 (as requested in a RWQCB letter), and Chuck Houser stated he would have the estimate by September 20, 2002. If we don't receive a cost estimate by the September date, an addendum will be issued.

**Items 3-5.** We discussed the problems with the quality of the reports. SCST takes full responsibility for the NOV's Jimmy Hsu received for failure to submit laboratory data electronically to Geotracker, and they will fix the errors and problems with reports. RWQCB showed SCST the SAM Manual and a report from another consultant as minimum expectations for reports.

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**Add-on item:** SCST discussed payment issues with Jimmy Hsu. A reimbursement claim was sent to USTCF on May 30, 2002; was received, reviewed and approved by USTCF by July 17, 2002. Chuck Houser was verbally told on July 30, 2002 that a check for \$90,000 would be issued to Jimmy Hsu. SCST was upset that they had not been paid. I suggested they submit the reimbursement request more frequently than twice a year, and they would get paid more frequently (instead of waiting for \$90,000 in invoices). I agreed to call Doug Wilson of USTCF to confirm whether a check had been sent to Jimmy Hsu or not. During the meeting Chuck and Jimmy Hsu discussed a \$50,000 payment that Jimmy was in the process of paying, pending approvals from the bank.

cc: Mr. Jimmy Hsu  
Mr. Chuck Houser





# California Regional Water Quality Control Board

## San Diego Region

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Gray Davis  
Governor

August 29, 2002

**Certified Mail – Return Receipt Requested**  
**7000 3400 0015 9996 1697**

Mr. & Mrs. Chung Kwan Hsu  
Budget Trade & Gas  
510 West 5<sup>th</sup> Avenue  
Escondido, CA 92025

In Reply Refer to:  
UST:50-2661.05:sjp

Dear Mr. & Mrs. Hsu:

**RE: ORDER NO. RB9-2002-0281 FOR TECHNICAL REPORT ON INVESTIGATION  
OF SUSPECTED DISCHARGE OF WASTE  
Budget Trade & Gas, 510 West 5<sup>th</sup> Avenue, Escondido, CA**

Pursuant to California Water Code (CWC) section 13267, you are directed to provide to the California Regional Water Quality Control Board, San Diego Region (Regional Board) by **December 1, 2002** the following:

A technical report on an investigation using an enhanced leak detection test of a suspected discharge of petroleum hydrocarbon waste to groundwater at Budget Trade & Gas.

Your USTs were replaced in 1989. At that time, petroleum hydrocarbon wastes were discovered in soil and groundwater. Replacement of the tanks was assumed to have abated the leak, however, methyl tertiary butyl ether (MTBE) was detected in groundwater at the site in the mid-1990s. MTBE was not widely used in 1989, thus, the high concentrations of MTBE in groundwater suggest a new leak from the UST system.

An enhanced leak detection test is needed because there is mounting evidence statewide that leak detection systems mandated by regulation are not adequate to detect all leaks from UST systems that pollute groundwater. The Santa Clara Valley Water District published a report of an investigation in which leak detection systems failed to discover hydrocarbon releases at over 80 percent of the sites investigated. Additionally, the State Water Resources Control Board recently published a report on the results of the Field Based Research Program to test the effectiveness of the 1998 UST upgrade requirements. Enhanced leak detection tests at stations in the study showed that over 60 percent of the systems tested leaked tracer vapors, and presumably, gasoline and diesel components into the environment. Thus, the leak detection records from Budget Trade & Gas may not be reliable indicators of the absence of a leak in the UST system.

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In addition, you are in the process of negotiating a condition of payment agreement with the State UST Cleanup Fund for a "pay for performance" cleanup of the site. An enhanced leak detection test will help ensure the success of the pay for performance process by finding any leaks in the system which might prevent you from reaching preliminary active remediation goals set in the condition of payment agreement.

The site overlies an aquifer with designated municipal beneficial uses. Therefore, the technical report is needed to ensure that the quality of groundwater in the area is not affected by the suspected discharge. Further, the technical report will document for the Regional Board whether or not the increased concentrations of pollutants in groundwater at the site is caused by a leak in the UST system. Because of the need to protect water quality in this sensitive aquifer, the costs of preparing the report bear a reasonable relationship to the need for the report and the benefits to be obtained from the report.

The UST Cleanup Fund has indicated that under certain conditions, testing an operating UST system using enhanced leak detection may be necessary as part of the corrective action process. As such, costs of the testing would be reimbursed from the UST Cleanup Fund. Please see the enclosed letter from Mr. Alan Patton, dated October 2, 2001, for a list of conditions under which an enhanced leak detection test is classified as corrective action.

Any person failing or refusing to furnish information required under the authority of CWC section 13267 or falsifying information submitted to the Regional Board pursuant to such a directive is guilty of a misdemeanor and may be subject to civil liability. Civil liability may be imposed administratively by the Regional Board in an amount of up to \$1,000 per day of violation (i.e., for each day of delay in submitting all information requested, or for each day that false information remains uncorrected).

If you wish to dispute the factual basis of, or the legal conclusions set forth in this order, you must submit all evidence and argument supporting rescission or modification of the order to the Regional Board within 14 days of the date of the order. Within 14 days the Regional Board will respond to your submission in writing, or advise you when a written response upholding, modifying, or rescinding the investigative order will be issued. You would have 30 days from the date of such response to file a petition for administrative review under Water Code section 13320 with the State Water Resources Control Board.

If you have any questions, or require additional assistance, please contact Ms. Sue Pease of my staff at (858) 637-5596.

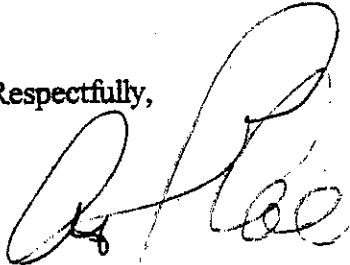



Mr. Hsu

- 3 -

August 29, 2002

Respectfully,



 John H. Robertus  
Executive Officer  
San Diego Regional Water Quality Control Board

Attachment

cc: Ms. Judy Reid, State Water Resources Control Board, Underground Storage Tank Cleanup  
Fund, 1001 'I' Street, Sacramento CA 95814

Mr. Chuck Houser, Southern California Soils and Testing, Inc., P.O. Box 600627  
San Diego, CA 92160-0627

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File # 50.2661.05

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Winston H. Hickox  
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# State Water Resources Control Board

## Division of Clean Water Programs

1001 I Street • Sacramento, California 95814  
P.O. Box 944212 • Sacramento, California • 94244-2120  
(916) 341-5661 • FAX (916) 341-5806 • [www.swrcb.ca.gov/cwphome/ustcl](http://www.swrcb.ca.gov/cwphome/ustcl)



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OCT - 2 2001

To: Interested Parties

### UNDERGROUND STORAGE TANK (UST) CLEANUP FUND (FUND), TESTING OF OPERATING USTS AS PART OF CORRECTIVE ACTION


In limited situations, claimants to the Fund may be eligible for reimbursement of the cost for testing operating USTs at or in the vicinity of the release site. This letter is intended to explain when the cost of a test may be eligible for reimbursement from the Fund.

The Fund may reimburse costs of corrective action. Corrective action includes activities necessary to investigate and analyze the effects of an unauthorized release, propose a cost-effective plan to adequately protect human health, safety and the environment and to restore or protect current and potential beneficial uses of water, and implement and evaluate the effectiveness of the activities. (Fund Regulations, § 2804.) Excluded from the definition of corrective action are activities related to the detection, confirmation and reporting of an unauthorized release. (Ibid.) Generally, release-related activities that take place before detection and confirmation are not considered corrective action. For the most part, routine tank tightness tests are more appropriately characterized as release detection or confirmation activities and would not be eligible for reimbursement. This would include any tests required under The California Underground Storage Tank Regulations (CCR Tit. 23, Div. 3, Ch. 16).

There are some cases, however, where it becomes necessary as part of the corrective-action process to test an operating UST to verify whether pollutants in the environment are from the eligible, confirmed release or from some other source. This situation calls for a very accurate test, such as the test used to meet the Enhanced Leak Detection (ELD) requirements specified in UST Regulations §2644.1. ELD relies on a test method that ascertains the integrity of an underground tank system by introduction and external detection of a substance that is not a component of the fuel formulation that is stored in the tank system.

The need for an ELD test, as a corrective-action tool commonly arises when a responsible party is investigating or cleaning up a confirmed unauthorized release at a site and either, one or more constituents of gasoline are detected for the first time, or the concentration levels for one or more constituents are significantly elevated compared to levels detected in earlier investigations of that release. In the vast majority of cases, the constituent of concern encountered in this type of situation is MTBE. While other constituents could be involved, MTBE will be used throughout this guidance as an example.

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In such cases, if the operating tank tests tight, then the conclusion can generally be made that the MTBE is related to the release that is the subject of the ongoing eligible corrective action. The Fund recognizes that there may be other explanations for the presence of the MTBE such as spills or offsite sources. These other potential sources should be ruled out before the claimant uses an ELD test as part of the corrective action for the confirmed, eligible release.

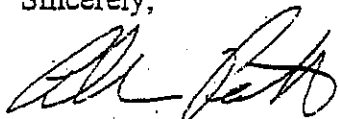
There is a fine line between testing an existing UST to aid in the corrective-action process of a confirmed release and testing an existing system to determine the integrity of the system (to determine if a new release has occurred). To classify the ELD test cost as corrective action costs:

- The test must be initiated because of environmental conditions.
- The test must be conducted in the course of performing corrective action of a confirmed release.
- The test must be required in writing by the cleanup oversight agency.
- There must be some basis to believe that the earlier, confirmed release could have involved MTBE (i.e., the tank must have stored gasoline and must have operated during a period when MTBE may have been in the gasoline stored.)
- There is no evidence that the MTBE came from surface spills or some other source.

Eligibility of ELD costs will be determined by the Fund, case-by-case, based on the facts. It is recommend that claimants obtain cost pre-approval from the Fund for ELD tests.

If you have any questions about this guidance, please contact Fund technical review staff.

Sincerely,



Allan V. Patton, Manager  
Underground Storage Tank Cleanup Fund



# California Regional Water Quality Control Board

## San Diego Region



Winston H. Hickox  
Secretary for  
Environmental  
Protection

Internet Address: <http://www.swrcb.ca.gov/rwqcb9/>  
9771 Clairemont Mesa Boulevard, Suite A, San Diego, California 92124-1324  
Phone (858) 467-2952 • FAX (858) 571-6972

Gray Davis  
Governor

September 13, 2002

Mr. & Mrs. Chung Kwan Hsu  
Budget Trade & Gas  
510 West 5<sup>th</sup> Avenue  
Escondido, CA 92025

In Reply Refer to:  
UST:50-2661.05:sjp

Dear Mr. & Mrs. Hsu:

**RE: ADDENDUM TO REPORT OF ASSESSMENT ACTIVITIES**  
**Budget Trade & Gas, 510 West 5<sup>th</sup> Avenue, Escondido, CA**

This letter is to acknowledge submittal of the Addendum to the Report of Assessment Activities, dated August 19, 2002, which was submitted to address discrepancies in the reported laboratory data in tables, figures, laboratory data sheets, and electronic deliverable format in Geotracker.

The addendum corrected some of the discrepancies, however Table 1 and Table 3 still contain values that are not in agreement with laboratory data sheets or Geotracker data. Please contact me to discuss the remaining discrepancies. Until all the requested corrections to the monitoring reports are received by the Regional Board, you are not in full compliance with directive V and VI of Cleanup And Abatement Order No. 2000-255.

If you have any questions, please call me at (858) 637-5596.

Respectfully,

Susan Pease  
Environmental Scientist C  
San Diego Regional Water Quality Control Board

cc: Ms. Judy Reid, State Water Resources Control Board, Underground Storage Tank Cleanup Fund, 1001 'I' Street, Sacramento CA 95814

Mr. Chuck Houser, Southern California Soils and Testing, Inc., P.O. Box 600627  
San Diego, CA 92160-0627

SJP:jac:sjp

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File # 50-2661.05

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# California Regional Water Quality Control Board

## San Diego Region

Winston H. Hickox  
Secretary for  
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9174 Sky Park Court, Suite 100, San Diego, California 92123  
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**TO:** File 50.2661.05

**FROM:** Sue Pease, Environmental Scientist  
**SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD**

**DATE:** October 15, 2002

**SUBJECT:** Meeting with Representatives of Budget Trade & Gas Facility, 510 West 5<sup>th</sup> Avenue, Escondido, CA

Mr. Jimmy Hsu, owner and operator of Budget Trade and Gas, Regional Water Quality Control Board (Regional Board) staff members Sue Pease and Julie Chan, and Susan Gehring (Mandarin Chinese translator) met at our office on October 15, 2002 to discuss the following:

- 1) Underground Storage Tank Cleanup Fund (USTCF) reimbursement check and payment to consultant.
- 2) Upcoming deadlines.
- 4) November 13, 2002 Board meeting.

Meeting discussion:

**Item 1.** Since our last meeting on August 23, 2002, the following events have transpired:

- a) USTCF issued a check for \$90,640 to Jimmy Hsu the first week of August.
- b) Jimmy Hsu was out of town 2 weeks in early August.
- c) On August 23, 2002, Jimmy Hsu paid Southern California Soils and Testing (SCST) \$45,000 by credit card.
- d) On August 27, 2002, SCST issued a letter to Jimmy Hsu that they would provide no further services until the remainder (\$45,000) of outstanding bills was paid.
- e) On August 29, 2002, Jimmy Hsu went through the mail that accumulated while he was out of town, found the USTCF check and deposited it. Jimmy Hsu stated he would wait for the check to clear (approximately 2 weeks) before paying the remainder of what he owed to SCST.
- f) Between August 29 and September 15, 2002, Jimmy Hsu made several payments to SCST (approximately \$11,000).
- g) On September 16, 2002, SCST issued a letter to Jimmy Hsu informing him that he owed \$34,152.47, and they expected payment in full by September 20, 2002.
- h) During the September 15-20 period, Jimmy Hsu attempted to pay SCST in full by credit card, but SCST refused to accept credit card payment. Jimmy Hsu had used a combination of checks and credit card as methods of payment for 2 ½ years, and had

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not been informed in writing that payment by credit card was no longer acceptable to SCST.

- i) After receiving a phone call from SCST, I called Jimmy Hsu to urge him to pay the remaining \$34,000, or he would risk missing upcoming deadlines for reports.
- j) On September 24, 2002, I received an email from SCST that stated Jimmy Hsu owes \$30,000. Apparently, Jimmy Hsu made a \$4,000 payment. The email also stated the account balance was \$52,000, so an additional \$22,000 has been added to the account. A review of invoices provided by SCST show payments by Jimmy Hsu for:

Date	Amount	Method of Payment
8/14/02	\$ 3366.02	by check
8/23/02	\$ 8737.60	by check
8/28/02	\$10,242.90	by credit card
8/30/02	\$ 220.89	by credit card
9/6/02	\$ 5,000.00	by credit card
<b>Total</b>	<b>\$27,567.41</b>	

These numbers do not match information provided to me verbally, in meetings or via email.

- k) On September 30, 2002, I received an email from SCST that stated Jimmy Hsu made a \$6,000 payment, and still owed \$24,000 from the USTCF reimbursement of \$90,640. The email also stated that the account balance was \$46,000.
- l) On October 3, 2002, Julie Chan forwarded a voice mail message to me from the USTCF. Bill Wright was investigating the case and would send a letter to Jimmy Hsu requiring him to provide proof of payment for \$72,000. If Jimmy Hsu could not provide proof of payment, the fund would refer the case to collections.
- m) On October 11, 2002, Julie Chan and I met with Judy Reid of the USTCF to discuss problems with the case. Several things could happen. If Jimmy Hsu is out of compliance with any RWQCB Orders, the County of San Diego could shut down the station by revoking or modifying Jimmy Hsu's underground storage tank permits pursuant to section 25285.1 of the California Health and Safety Code. If the station is shut down, or the USTCF sends the case to collections, Jimmy Hsu could lose his Letter of Commitment, and he would not be able to use the USTCF again.

Julie and I reviewed the sequence of events with Jimmy Hsu. We asked Jimmy why he didn't use funds from the USTCF reimbursement check to pay the balance owed to SCST. Jimmy responded that he used the USTCF check to pay off bills that included credit card payments to SCST, but also purchases of gasoline from his distributor. He assumed that SCST would accept payment with a credit card. When SCST refused to accept credit card payments after September 16, Jimmy Hsu had no funds to pay off SCST. Until this meeting, I did not know that SCST had refused to accept payment by credit card. Julie and I told Jimmy that he had to somehow find a way to pay his consultant or he would miss upcoming deadlines for reports. Jimmy Hsu said he would make a \$20,000 payment that day.



October 15, 2002

**Item 2.** I reminded Jimmy Hsu that he had 3 deadlines approaching:

- a) October 30, 2002 – The 3<sup>rd</sup> quarter ground water monitoring report.
- b) December 1, 2002 – A technical report with results from Enhanced Leak Detection Test per RWQCB Order No. R9-2002-0281 (section 13267 of California Water Code), issued August 29, 2002.
- c) January 3, 2003 – Commencing soil excavation as an alternative remedial action, per RWQCB Addendum No. 4 to Cleanup and Abatement Order (CAO) No. 2000-255, issued October 1, 2002.

Jimmy said that SCST stated they could get the monitoring report finished by October 30, 2002, but Jimmy was unsure if he could meet the other 2 deadlines. I reminded Jimmy that civil liabilities of up to \$15,000 per day could be imposed for lack of compliance with Addendum No. 4 to the CAO, and up to \$1,000 per day could be imposed for lack of compliance with section 13267 CWC.

**Items 3.** We discussed the upcoming November 13, 2002 Board meeting. I told Jimmy I would give the Board members a summary of what had happened in 6 months. Previously, the Board members had embraced the Pay for Performance Program, and due to issues involving payment of SCST, progress on Pay for Performance has stopped. The lack of progress with Pay for Performance was the reason for issuance of Addendum No. 4 to CAO No. 2000-255 which sets a start date for commencing the alternative remedial action of soil excavation.

cc: Mr. Jimmy Hsu  
Mr. Chuck Houser

bcc: John Robertus  
Art Coe  
Dave Barker  
Julie Chan  
John Richards



**From:** "Chuck Houser" <chouser@scst.com>  
**To:** <peass@rb9.swrcb.ca.gov>  
**Date:** 11/7/02 9:05AM  
**Subject:** Budget Trade and Gas

Regarding your recent message about proceeding with PFP on Budget Trade and Gas, we spoke with Cleanup Fund staff this morning. Mr. Bob Trommer indicated that the Cleanup Fund does not feel this is a favorable site for PFP. You may want to call him to discuss their concerns. In the mean time, we will prepare the cost estimate as soon as possible, but we are having to start over on the subcontractor bid. The previous company we were looking at appears too busy to respond to our need for a bid. I met with Fred North at the site yesterday. He has worked with the ORC and knows several techniques for application. I expect a bid from him late next week. I also spoke with Diana Conkle at the Cleanup Fund this morning and she would like us to obtain more than one subcontractor bid for this work. She suggested at least one additional company which I will contact early next week. I will be out of the office through Monday next week. Talk to you soon.

**CC:** <chanj@rb9.swrcb.ca.gov>



**From:** Allan Patton  
**To:** Pease, Sue  
**Date:** 11/7/02 4:15PM  
**Subject:** Re: Fwd: Budget Trade and Gas

Hi Sue, I'm sorry this project never seems to go as planned. There are two issues here, 1) Enhanced Leak Detection (ELD) and 2) Pay for Performance (PFP).

With regard to ELD, I agree with your interpretation of what we discussed last week. That is, the conditions that would allow us to pay for ELD as corrective action don't appear to exist at this site. But it would make sense for the contractor to have an ELD test done if PFP were to be used at the site to provide confidence in the baseline data. In the latter case, the cost of ELD could be included in the lump sum price for the PFP project, and would be something we wouldn't have to consider by itself.

With regard to PFP, I believe I mentioned last Spring when we met that we weren't sure PFP would apply to a project where excavation was the only active cleanup method to be used. Now we see that this is being proposed essentially as an excavation-only project (with ORC added). Surely a PFP project might include some excavation as source removal, but with some type of active groundwater treatment following. Without getting into the details, we can't figure out how to set up a PFP-type payment plan for an excavation-only cleanup. If we cover the whole excavation with the first payment, what are we getting for later progress payments? If we only pay half and pay the rest as concentrations decline, then the consultant has to wait for costs he would get earlier under a traditional payment strategy. It just makes more sense to get a pre-approval for the excavation project and pay for it when its complete and then pay for monitoring of the groundwater as it happens.

Bob spoke with Chuck this morning and went over our thoughts on the above. It came out that one of the biggest attractions for PFP on this project is a quicker payment timeframe than the normal Fund payment turnaround. I don't want to mis-use the PFP program just to provide quicker payments, nor can I promise to provide something for this site that I wouldn't do for any other claim. But, after speaking with Bob, I think we have an idea on how to move ahead without going the PFP route. We can use what we call the "Pre-approval specific reimbursement request." Under this option, which we have also been trying to promote, and would do for any claimant, we approve project costs by task, and provide a spreadsheet to be used to recover costs for the pre-approved project. If the costs come in at or under budget, then the payment is handled directly by our administrative staff, by-passing our technical review. This will knock off 30 to 45 days from the turnaround, and approach the same timeframe as a PFP payment. If Chuck is interested in this, he should seek pre-approval for the project, and I think we can still meet your January timeframe.

Having said that, we do have some concerns about the excavation project. Digging below the watertable is pretty tricky, and it is just about impossible to get any kind of meaningful soil data to serve as a guide for when to stop digging. We would like to see a workplan prepared that discusses what decision-making criteria would be used to determine when to excavate and when not to excavate, what the maximum volume of soil to be removed would be, etc., etc. This would provide Chuck, the Fund and you with needed comfort to make sure the project is cost-effective, accomplishes what you want and comes in at or under budget. We would be happy to work with Chuck and you in the development of the project details so that the pre-approval can move ahead quickly.

Allan

>>> Sue Pease 11/07/02 09:54AM >>>  
Allan & Bob,

I received the attached e-mail from Chuck Houser (consultant for Budget Trade & Gas) today. This is contrary to what we discussed last week in our conference call. I'm wondering if Chuck misunderstood

something you said.

In our conference call last week we discussed rescinding a 13267 order where we requested enhanced leak detection, and factoring the cost of doing ELD into the cost estimate for Pay for Performance. We discussed that the cost estimate is due before the actual excavation begins in January, and that we may need to renegotiate PARG's if a new release is discovered, and that baseline values may be different based on current ground water monitoring results. Is my interpretation of the status of moving forward with Pay for Performance, and the discussions in the conference call correct?

Sue Pease

**CC:** Chan, Julie; Houser, Chuck; Trommer, Bob



# California Regional Water Quality Control Board

## San Diego Region



Winston H. Hickox  
Secretary for  
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Gray Davis  
Governor

November 8, 2002

**Certified Mail – Return Receipt Requested**  
**7000 3400 0015 9997 0378**

Mr. & Mrs. Chung Kwan Hsu  
Budget Trade & Gas  
510 West 5<sup>th</sup> Avenue  
Escondido, CA 92025

In Reply Refer to:  
UST:50-2661.05:sjp

Dear Mr. & Mrs. Hsu:

**RE: RESCISSION OF ORDER NO. R9-2002-0281**  
**Budget Trade & Gas, 510 West 5<sup>th</sup> Avenue, Escondido, CA**

On August 29, 2002, pursuant to California Water Code (CWC) section 13267, Order No. R9-2002-0281 directed you to provide a technical report by December 1, 2002, on an investigation using an enhanced leak detection (ELD) test. That order is rescinded by this letter for the following reasons:

1. The Underground Storage Tank Cleanup Fund (USTCF) has determined that reimbursement for the cost of performing an ELD test is inappropriate for this site. Estimates on the cost of the test range from \$3,000 to \$5,000.
2. The costs of obtaining a county permit to perform an ELD test are calculated per monitoring point, and would probably cost more than \$1,500.
3. The benefits of performing the ELD test do not outweigh the costs, which could total as much as \$6,500.

If you have any questions, or require additional assistance, please contact Ms. Sue Pease of my staff at (858) 637-5596.

Respectfully,

John H. Robertus  
Executive Officer  
San Diego Regional Water Quality Control Board

**California Environmental Protection Agency**

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Mr. Hsu

- 2 -

November 8, 2002

cc: Ms. Judy Reid, State Water Resources Control Board, Underground Storage Tank Cleanup  
Fund, 1001 ' I ' Street, Sacramento CA 95814

Mr. Chuck Houser, Southern California Soils and Testing, Inc., P.O. Box 600627  
San Diego, CA 92160-0627

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File # 50.2661.05

***California Environmental Protection Agency***

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## Executive Officer's Report – November 13, 2002

### Budget Trade and Gas Status of Compliance and Cleanup Progress – (Sue Pease)

At the May 2002 Board meeting, the Board directed the discharger, Mr. Jimmy Hsu, to make every effort to get the Budget Trade and Gas cleanup into the new Pay for Performance program of the UST Cleanup Fund (USTCF). This program pays dischargers for achieving pollutant concentration reductions rather than for time and materials. The Pay for Performance Program was expected to solve some of Mr. Hsu's cash flow problems and speed up the cleanup. Staff successfully negotiated the preliminary active remediation goals for the condition of payment agreement, and concurred with the proposed alternative cleanup method of soil excavation. Staff requested that a cost estimate for the cleanup be submitted by August 15, 2002. The cost estimate is the foundation from which the discharger and the USTCF negotiate the condition of payment agreement. Mr. Hsu's consultant requested a one-month extension and we agreed that the cost estimate could be sent in on September 15, 2002.

In the meantime, the USTCF issued a check, in the beginning of August, to Mr. Hsu for \$90,640 in reimbursement funds. The consultant was paid approximately half (\$45,000) of what they were owed on August 23, 2002. On August 27, 2002 the consultant sent a letter to Mr. Hsu and stated they would provide no further services until they were paid in full. Between August 29 and September 15, 2002, Mr. Hsu made several payments to the consultants totaling \$11,000. After September 15, Mr. Hsu attempted to pay the balance of his bill with a credit card (a method he had used for 2 ½ years), however, the consultant refused to accept the credit card for payment. By September 30, Mr. Hsu had paid another \$10,000 by check.

On October 15, 2002, Julie Chan and Sue Pease met with Mr. Hsu to discuss payment issues, to remind Mr. Hsu that compliance deadlines were approaching and inform him he needed to get his consultant back on the job. Mr. Hsu paid his consultant soon after this meeting and the consultant resumed work.

The 3<sup>rd</sup> quarter ground water monitoring report was received by the due date, October 30, 2002. An order for an Enhanced Leak Detection Test was issued, but will be rescinded as the USTCF does not intend to require this test as a prerequisite to negotiating a condition of payment with Mr. Hsu. Addendum No. 4 to Cleanup and Abatement Order No. 2000-255 was issued August 29, 2002, and requires remediation by excavation to begin by January 3, 2003. This addendum was issued due to lack of progress with Pay for Performance because the consultant was off the job from late August through mid-October. The delays in implementing Pay for Performance may also necessitate renegotiation of the preliminary active remediation goals since the goals are based on water quality data that are now out-of-date.

Mr. Hsu and his consultant were instructed to continue with the cost estimate for the condition of payment because the USTCF will still consider this site for the Pay for Performance Program.



# California Regional Water Quality Control Board

## San Diego Region



Vinston H. Hickox  
Secretary for  
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Gray Davis  
Governor

November 20, 2002

Mr. & Mrs. Chung Kwan Hsu  
Budget Trade & Gas  
510 West 5<sup>th</sup> Avenue  
Escondido, CA 92025

In Reply Refer to:  
UST:50-2661.05:sjp

Dear Mr. & Mrs. Hsu:

**RE: 3rd QUARTER 2002 GROUND WATER MONITORING  
Budget Trade & Gas, 510 West 5<sup>th</sup> Avenue, Escondido, CA**

This letter is to acknowledge submittal of the 3<sup>rd</sup> quarter 2002 ground water monitoring report, received on October 30, 2002. We have the following comments about the report:

- 1) In the 3rd quarter 2002 two ground water monitoring wells were not sampled: MW2, which is reported to be filled with grout, and MW3 which is reported to have a Southern California Soils and Testing bailer stuck inside it. You were previously requested by our August 8, 2002 letter to repair these monitoring wells and include them in the 3<sup>rd</sup> quarter 2002 sampling event. In a meeting held at our office on August 23, 2002, we discussed substituting ground water samples from well AS-3-0 for ground water samples from MW2 and MW3. **Please provide a written explanation why AS-3-0 is an appropriate substitute for MW2 and MW3 in the next quarterly monitoring report, due January 30, 2003. Include construction details in your discussion.**
- 2) You were previously requested by our August 8, 2002 letter to include data from three wells, owned and formerly monitored by Plavan Petroleum, in your quarterly monitoring reports. This data was not included in the 3<sup>rd</sup> quarter 2002 ground water monitoring report. In a meeting held in our office on May 22, 2002, we discussed adding three Plavan wells to the monitoring program for the Budget Trade & Gas site. It is my understanding that, because Plavan no longer monitors the three wells, your consultant, Southern California Soils and Testing, was to contact Plavan and set up a meeting to discuss transferring the responsibility for three ground water monitoring wells to you. **Data from the Plavan wells, or wells drilled in a downgradient position to the current monitoring wells, is to be included in the next quarterly monitoring reports, due January 30, 2003. Future monitoring reports will be deficient, and you will receive a Notice of Violation, if data from the Plavan wells, or replacement wells are not included in the reports.**

***California Environmental Protection Agency***

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Mr. and Mrs. Hsu

- 2 -

November 20, 2002

Our August 8, 2002 letter requested copies of the field data for the previous three quarterly monitoring reports. To date that has not been received. **Please submit the requested information by January 30, 2003. Future monitoring reports will be deficient, and you will receive a Notice of Violation, if the field data is not included in the reports.** If you have any questions, please call me at (858) 637-5596.

Respectfully,



Susan Pease  
Environmental Scientist C  
San Diego Regional Water Quality Control Board

cc: Ms. Judy Reid, State Water Resources Control Board, Underground Storage Tank Cleanup Fund, 1001 'I' Street, Sacramento CA 95814

Mr. Chuck Houser, Southern California Soils and Testing, Inc., P.O. Box 600627,  
San Diego, CA 92160-0627

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**California Environmental Protection Agency**

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